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April 3, 2003

Hand Delivered

The Honorable Dickinson Debevoise, Jr.
United States District Judge
Dr. Martin Luther King, Jr. Federal Building and Courthouse
50 Walnut Street, Room 5083
P.O.Box 999
Newark, N.J. 07101-0999

Re: Newark Coalition for Low Income Housing et al v. NHA and HUD, No. 89-1303

Dear Judge Debevoise:

This letter is written in response to the NHA's position, provided to us yesterday afternoon, indicating for the first time that it was rejecting a tentative agreement with the third party defendants in which the third party defendants had agreed to withdraw their state court appeal of tax credit allocations and reservations of JS Urban Renewal LP's 2002 allocation and 2003 reservation of tax credits to subsidize new housing under the Stella Wright HOPE VI program, in return for the NHA's adoption of a proposed plan to supply additional detail to its section 8 housing mobility program. The only reason offered for the NHA's position is the lack of "existing staff nor financial resources to carry out the proposed program." See Facsimile from Oliver Lofton, dated April 3, 2002.

The NHA's response raises several concerns for the Plaintiffs. First, the NHA did not identify a single item or items from the proposed program, the implementation of which is beyond its present staffing and resources. Because the court-appointed expert in this matter drafted the plan, is fully apprized of the NHA's staffing and financial resources and appropriate management practices for responsibly carrying out its obligations, and has already winnowed the program down on cost and staffing grounds to its present form by expressly rejecting numerous suggestions for improving this program offered by counsel that have proven central to the success of section 8 mobility programs in other jurisdictions, the NHA's unsupported assertion lacks factual support.

Second, to the extent that the NHA is indeed truly unable to perform any of the functions outlined in the expert's proposed plan (without delineation or specification), the NHA's position reflects an admission that it may be unable to execute long-recognized relocation responsibilities under the court-supervised SW HOPE VI separate and apart from any concerns of the third-party defendants. The NHA's relocation responsibilities under the court-supervised SW HOPE VI have been articulated and elaborated upon through a variety of documents and through monitoring reports. The Court-approved and supervised 1999 settlement agreement, expressly mandated that the "NHA shall establish a relocation and counseling unit staffed with high level employees to assist SWH tenants relocate themselves," and it expressly incorporates the expert's "Report on Section 8 Market Analysis and Relocation Report and directs the NHA "to cure the administrative and management deficiencies noted in [that report]." ¶ 2B2. It also provided that the "NHA shall take steps necessary to make available to persons on its waiting list section 8 vouchers which the NHA has obtained from HUD, including the establishing of adequate rental market research and counseling support and complying with other recommendations of Abt Associates, Inc., so that Section 8 vouchers are leased and utilized."

In turn, Abt's referenced Section 8 Market Analysis and Relocation Report dated February 24, 1999, noted problems with inordinate delays in section 8 leasing for relocations under the Walsh Homes HOPE VI. After observing that most relocated families required "extensive assistance" within the mobility counseling process with the full range of issues and services that are part of the housing package-i.e. "unit conditions, safety, transportation and schools," *Id.* at 4, Abt suggested that it would likely need either to expand staffing levels or contract out counseling and relocation to other agencies. *Id.* at 4, 6. The Report also pointed out that while some Walsh tenants choosing section 8 were able to be located in less economically impacted areas, "all but 1 of the 76 families tracked had relocated to areas considered severely racially impacted." *Id.* at 8. Abt recommended that the "NHA should request approval from HUD for use of area exception rents to accommodate families who choose to relocate to other areas of Essex County." *Id.* at 9-10. The Report also mandated that "[t]o provide greater opportunities for relocating families outside of areas of minority and poverty concentration, NHA should also expand its unit listings, aggressively seek listings in targeted areas outside concentrated, and/or contract with experienced housing search agencies or firms to find units in non-impacted areas that meet tenants' preference criteria." *Id.* Apart from learning from the lessons and correcting identified shortcomings in the Walsh relocations, the Report noted that 1000 vouchers and certificates reserved for tenants relocating from Hayes, Kretchmer, and Walsh, for future unspecified relocation needs, and for the waiting list, were unused and suggested that the NHA take remedial steps to lease those units within a reasonable period of time. *Id.*

One can conclude from this Report that tenants relocated from Walsh and from the other demolished housing projects did not receive adequate or appropriate Section 8 relocation options for the timely pursuit of alternative relocation housing in non-impacted areas, and that persons on the Section 8 waiting list were also improperly stymied in their pursuit of suitable housing by the improper stockpiling of vouchers. Accordingly, remedial measures addressed

to these deficiencies such as through partial inclusion of section 8 voucher holders in the proposed mobility plan, are justified.

The NHA's HOPE VI application itself notes that the HOPE VI revitalization plan supports an overall objective of "improving housing and economic opportunities" of very low income families concentrated in the central ward "by dispersing this population out of predominantly poverty stricken areas of the city into more stable neighborhoods." *Id.* at 20. It specifically proposes utilizing Section 8 vouchers to give families "the option to move into less impacted areas where better educational and employment opportunities are" *id.*, and providing "extensive mobility counseling" after gathering information from "the City of Newark, Essex County, and the five surrounding counties about public and private schools and adult education systems, public transportation schedules and routes, job opportunities, and social services programs available" and "conducting landlord outreach." *Id.* at 23. The NHA's mobility counseling in addition to providing education on "selecting a unit in a non-impacted area that is close to good schools, work opportunities and social services providers" would also provide referrals "to other agencies for services to assist with [the families'] moves toward self-sufficiency." *Id.*

Pursuant to the SW HOPE VI, Abt developed a document entitled "NHA Procedure on Mobility Counseling for Stella Wright Residents" that further elaborated on the NHA's mobility counseling responsibilities. That document, among many items of greater elaboration, included a chart of tasks and subtasks under the heading "Landlord Outreach" to find "housing opportunities for Section 8 families outside of areas of high-poverty and minority concentration." *Id.* at 2, §1.2.2.¹ The Chart calls for extensive demographic mapping and includes a "primary task" of identifying "areas outside of high poverty and minority concentration" and then a subtask of gathering Census Bureau Data and base maps for the city of Newark and surrounding counties." In the Resource Gathering section it calls for assembling extensive information on different neighborhoods within "Newark, Essex County and the surrounding counties" including detailed information on day care, religious institutions, employment, entertainment, healthcare, schools, elderly services, social services and transportation. *Id.* at 4.

Abt's monitoring reports on the NHA's performance of these various Section 8 mobility and relocation responsibilities revealed such serious deficiencies over a significant period of time that the Court was forced to compel the NHA to contract with other agencies to help discharge these duties. For example, Abt's June 5, 2000 Report found that "No mobility counseling is being provided at all," that "staff that had been trained to do mobility counseling has been instructed not to do it anymore," that this "failure" is "quite serious" and that "no one is

¹ Abt also prepared a document entitled "Newark Housing Authority : Relocation Procedure" in which it defined mobility counseling as "counseling provided to families designed to increase the opportunity and choice among HOPE VI families and Section 8 voucher holders and to support their choice to move to neighborhoods of low economic and minority impaction." *Id.* at 3, § 1.7.

doing any significant landlord outreach outside of the city's boundaries." Abt's August 17, 2000 Report noted that "there is still only limited landlord outreach outside of the city's boundaries."

The September 26, 2000 Abt Report noted that there was "limited increase in staff capacity in identifying issues described in resident assessment, but there is little indication of referral to agencies or referral to housing in areas that may resolve the problem." It further found that "some staff members indicate that they are not given the flexibility to go out and find solutions." The Report elaborated further :

We have stressed to the NHA the importance of : 1) conducting outreach to landlords in non-impacted areas; 2) conducting mobility counseling for those residents who were moved out of Stella Wright without the benefit of mobility counseling. Of the 298 that the NHA identified as opting for Section 8 Housing Choice Vouchers, only 63 received some form of Mobility Counseling. Many of the section 8 participants are at their one-year anniversary dates and if they are to be given an opportunity to move to non-impacted areas must receive comprehensive mobility counseling in sufficient time to notify current landlords that they will not be renewing their leases. Some mobility counseling staff members clearly are unaware of housing opportunities outside of the traditional section 8 neighborhoods in Newark and are unaware of agencies that may provide solutions to family issues. Despite their lack of knowledge and related quality problems with mobility counseling, the staff is requiring that Stella Wright residents sign a statement that they have received mobility counseling.

Id. at 3-4. This Report also found that the NHA had undermined its own application for additional section 8 vouchers, causing its rejection by HUD, by "indicating that vouchers were not needed." *Id.* at 3. This conduct caused further injury to Stella Wright tenants and to all section 8 applicants on the waiting list, justifying additional remedial measures to each group such as those presently proposed by Abt.

Finally, after documenting further serious continued systemic failures in the NHA's mobility program and "no real progress in this area," Abt's November 26, 2000 Report recommended "contracting the entire mobility counseling program out." *Id.* at 4. Abt concluded: "**The NHA promised to do mobility counseling in its HOPE VI application and the obligation is still outstanding.**" *Id.* The Court adopted this recommendation in its order from the bench in December 2000. Apt's March 1, 2001 noted that the NHA had requested authority to hire a staff person to do emergency mobility counseling and that this staff persons' responsibilities would shift to contract oversight and monitoring once the contracts were in place. Abt's June 15 2001, Report noted that "the NHA is ready to award contracts, or perhaps has awarded contracts for mobility counseling and case management services." *Id* at p.4. In October 1, 2001, Abt found that the NHA was finally capable of carrying out the mandated mobility procedures and had finally procured mobility and case management contractors. *Id.* at 4. However, problems persisted as Abt also found that the NHA's rewriting of the relocation procedure did not comply with the Uniform Relocation Act or the Tenant Selection and Assignment Plan. *Id.* at 5.

Abt's February 11, 2002 Report reiterated the hopes that the NHA's hiring of an experienced mobility counseling staff member and then its procurement of mobility counseling and case management contractors, would eventually lead to section 8 families successfully relocating in non-impacted neighborhoods. It noted however that to date, "any efforts towards mobility counseling have borne little or no fruit." *Id.* at 3. On the same day, Abt released a short series of comments on the NHA's request for release from the court order. After commending the NHA's recent mobility counseling actions, it concluded that:

[W]hile mobility counseling is not characterized in the Abt report as a failure, it cannot be characterized as a success either. The goal of mobility counseling should be to get families into less impacted racially and economically areas, even if those areas are outside of Newark. Abt believes this element must be monitored as part of the annual report.

Id. at 2. In June 5, 2002 (only 10 months ago), Abt noted, with respect to the Section 8 program, that its "report highlights the fact that families continue to locate only in impacted neighborhoods and that mobility efforts should be increased." *Id.* at 2. On this point, the NHA neither disagreed with Abt's finding nor with its recommendation for increased mobility efforts but merely suggested that the problems of making successful mobility moves to the suburbs was not confined to Newark. The NHA stated:

We agree with Abt that mobility efforts must be increased so as to locate as many families as possible in non-impacted areas. However, we recognize, as does Abt that most of the City of Newark is impacted, either racially or by low income concentrations. Further, as we have previously pointed out, our inability to relocate families into the suburbs in any significant numbers is a problem not parochial to Essex County, but is a problem endemic to the country as a whole.

Letter from Oliver Lofton to the Court, June 13, 2002.

Despite the promise to increase mobility efforts, Abt's August 6, 2002 Report noted the NHA's continued resistance to Abt's recommendation to raise the payment standard above 100% of fair market rents. This resistance continued even after Abt informed NHA personnel that its purported justification for not raising the payment standard—a willingness to grant exception rents on a case by case basis--would not be effective since the lower advertised rents would tend to discourage landlords from participating with the NHA and families might not even consider a wider range of neighborhoods without knowing about the higher payment standards from the outset. *Id.* at 4.

Although Abt's most recent two reports in the past few months document for first time some progress in mobility counseling and the penetration of, at least somewhat less economically impacted neighborhoods within Newark for Stella Wright relocatees with section 8 vouchers, this very recent and minimal progress does not vitiate the long and sorry history of mobility program failure documented above and the NHA's obligation to remedy that history. Moreover, the limited recent accomplishments still fall far short of approaching Abt's definition of mobility program success: "*get[ting] families into less impacted racially and*